

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

DEMETRIUS BROWN,)
Plaintiff,)
)
)
)
v.) C.A. No. 04-379 Erie
)
UNITED STATES,)
U.S. JUSTICE DEPARTMENT,)
BUREAU OF PRISONS (BOP),)
FCI MCKEAN, HARVEY G. LAPPIN-)
Director of BOP, NEWTON E.)
KENDIG- Medical Director of BOP)
D. SCOTT DODRILL- Northeast Reg-)
ional Director of BOP, JOHN J.)
LAMANNA- FCI McKean Warden,)
Defendants.)

10. 
11. 
12. 
13. 

PLAINTIFF'S RENEWED PETITION TO EFFECT
NEW AND PERSONAL SERVICE UPON DEFENDANT
"UNITED STATES"

COMES NOW, DEMETRIUS BROWN, herein as Plaintiff, proceeding Pro-Se, hereby moves this Honorable Court, the United States District Court for the Western District of Pennsylvania, for an Order directing the U.S. Marshals Service to effect new and personal service upon defendant "UNITED STATES." In support, Plaintiff affirms and declares, the following:

1. On January 4, 2006, Plaintiff filed a Petition to Extend New and Personal Service upon Defendant- UNITED STATES Attorney. That, cause for effecting new and personal service was based on the U.S. Marshals Service issuing defective service of process.

2. On January 17, 2006, this Court ordered defendants to file response to Plaintiff's Motion to Extend Time to Effect New and Personal Service upon Defendant.

3. On January 19, 2006, Defendants responded to Plaintiff's Motion to Extend Time to Effect New and Personal Service upon Defendant- UNITED STATES Attorney. That, Defendants asserted because UNITED STATES responded to Complaint, Amended Complaint, and has not contested service of process, Plaintiff's petition should be denied as moot.

4. As a result, this Court agreeing, denied as moot, Plaintiff's Petition to Extend Time to Effect New and Personal Service. However, Plaintiff for cause now renews his Petition to Effect New and Personal Service upon Defendant- UNITED STATES Attorney.

5. For this reason, On March 12, 2007, Plaintiff submitted a Third Amended Complaint for filing, naming in the caption "UNITED STATES" (the sovereign authority for the government of the United States of America) as a defendant in fact.

6. Plaintiff's Third Amended Complaint sues, per se, the UNITED STATES for its liability in the acts and omissions of HARLEY G. LAPPIN- Director of the Bureau of Prisons, NEWTON E. KENDIG- Medical Director of the Bureau of Prisons, D. SCOTT DODRILL- North-east Regional Director of the Bureau of Prisons, and JOHN J. LAMANNA- Warden of FCI McKeon.

7. Under the Federal Rules of Civil Procedure, process is to be served upon the UNITED STATES by: "(1) delivering a copy of the summons and of the complaint to the UNITED STATES Attorney for the district in which the action is brought. See **Fed.R.Civ.P. 4(i)(1)(A)**. That, the time limit for service is 120 days after the filing of the complaint. See **Fed.R.Civ.P. 4(m)**.

8. Personal service upon the UNITED STATES is no longer a moot issue. Plaintiff has submitted for filing a Third Amended Complaint naming in the caption "UNITED STATES," *per se*. That, should judgment be rendered on behalf of Plaintiff, judgment would be rendered against the UNITED STATES.

9. Therefore, enforcing judgment against the UNITED STATES is proper in the sense that the UNITED STATES is a party defendant and legally served process for submitting to the Court's jurisdiction.

WHEREFORE, in light of the foregoing, Plaintiff request that this Court issue order directing the U.S. Marshals Service to effect new and personal service upon defendant "UNITED STATES" by servicing the UNITED STATES Attorney for the Western District of Pennsylvania.

I, DEMETRIUS BROWN, hereby affirm and declare under penalty of perjury, 28 U.S.C. §1746, that the foregoing is true and correct.

6/5/07
Dated

Demetrious Brown

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DEMETRIUS BROWN,)
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ional Director of BOP, JOHN J.)
LAMANNA- FCI McKean Warden,)
Defendants.)

PROOF OF SERVICE

I, DEMETRIUS BROWN, do swear or declare that on this date,
June 5th, 2007, as required by Fed.R.Civ.P. 4 and 5, I have served
the enclosed PETITION TO EFFECT NEW AND PERSONAL SERVICE UPON
DEFENDANT "UNITED STATES" with Affidavit to Support on each party
to the above proceeding or that of party's counsel, and on every
other person required to be served, by depositing an envelope con-
taining the above documents in FCI RayBrook's internal mail system
for mail in the United States, mail properly addressed to each of
them and with first-class postage prepaid.

The names and addresses of those served are as follows:

MEGAN E. FARRELL Assistant U.S. Attorney Western District of PA	at	700 Grant St. Suite 4000 Pittsburgh, PA. 15219 (412) 894-7429 PA ID #76972
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I declare under penalty of perjury, 28 U.S.C. §1746, that
the foregoing is true and correct. Executed on June 5th, 2007

Demetria Brown

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ional Director of BOP, JOHN J.)
LAMANNA- FCI McKean Warden,)
Defendants.)

ORDER

AND NOW, this ____ day of June, 2007,

IT IS HEREBY ORDERED, that Plaintiff's PETITION TO EFFECT
NEW AND PERSONAL SERVICE UPON DEFENDANT "UNITED STATES" in the
civil action number 04-379 Erie is hereby GRANTED.

IT IS FURTHER ORDERED, that the UNITED STATES Marshals
Service shall be directed to Effect New Process/Summons personally
upon the UNITED STATES by servicing the UNITED STATES Attorney for
the Western District of Pennsylvania at U.S. Post Office and Court-
house, 700 Grant Street, Pittsburgh, PA. 15219.

IT IS FURTHER ORDERED, that the parties are allowed ten (10)
days from this date to appeal this order to a district judge pursuant

Local Rule 72.1.3B. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

/s/

cc:United States Marshals
Megan E. Farrell
Demetrius Brown